

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
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DOC #:  
DATE FILED: 8/14/2023

SMART STUDY CO., LTD.,

*Plaintiff*

v.

ACUTEYE-US, APZNOE-US,  
BEJINGKANGXINTANGSHANGMAOYO  
UXIANGONGSI, BLUE VIVI,  
BONUSWEN,  
CHANGGESHANGMAOYOUXIANGONG  
SI, CITIHOMY, CKYPEE, DAFA  
INTERNATIONAL, DAZZPARTY,  
FAMING, GAIFEI TRADE CO LTD,  
GEGEONLY, HAITING\$, HAOCHENG-  
TRADE, HAPPY PARTY-001,  
HEARTLAND GO, HUIBI-US, JOYSAIL,  
JYOKER-US1, KANGXINSHENG1,  
LADYBEETLE, LICHE CUPCAKE STAND,  
LVYUN, MARY GOOD SHOP, NA-  
AMZ001, NAGIWART, NUOTING,  
QINGSHU, QT-US, SALIMHIB-US, SAM  
CLAYTONDDG, SENSIAMZ BACKDROP,  
SHENZHENSHIXINDAJIXIEYOUXIANG  
ONGSI, SMASSY US, SMSCHHX,  
SUJIUMAISUSU, SUNNYLIFYAU,  
TELIKE, THEGUARD, TONGMUMY,  
TOPIVOT, TUOYI TOYS, UNE PETITE  
MOUETTE, VETERANS CLUB a/k/a 老兵  
俱乐部, WCH- US, WEN MIKE,  
WONDERFUL MEMORIES, WOW GIFT,  
XUANNINGSHANGWU, XUEHUA INC,  
XUIYUI7I, YAMMO202, YICHENY US,  
YLILILY,  
YONGCHUNCHENGQINGMAOYIYOUXI  
ANGONGSI, YOOFly and ZINGON US,

*Defendants*

**CIVIL ACTION No.  
21-cv-5860 (GHW)**

**ORDER TO SHOW CAUSE WHY  
DEFAULT JUDGMENT AND A  
PERMANENT INJUNCTION SHOULD  
NOT BE ENTERED AGAINST  
DEFAULTING DEFENDANTS**

**GLOSSARY**

<b><u>Term</u></b>	<b><u>Definition</u></b>	<b><u>Docket Entry Number</u></b>
<b>Plaintiff or Smart</b>	Smart Study Co., Ltd.	N/A
<b>Defendants</b>	Acuteye-US, APZNOE-US, beijingkangxintangshangmaoyouxiangongsi, blue vivi, Bonuswen, changgeshangmaoyouxiangongsi, Citihomy, Ckypee, DAFA International, Dazzparty, Faming, GaiFei Trade Co Ltd, GeGeonly, HAITing\$, Haocheng-Trade, HAPPY PARTY-001, Heartland GO, Huibi-US, Joysail, Jyoker-US1, Kangxinsheng1, LADYBEETLE, LICHE Cupcake stand, lvyun, Mary good shop, NA-AMZ001, Nagiwart, nuoting, Qingshu, QT-US, SALIMHIB-US, SAM CLAYTONddg, Sensiamz Backdrop, shenzhenshixindajixieyouxiangongsi, SMASSY US, SMSCHHX, sujiumaisusu, sunnylifeyau, telike, Theguard, tongmumy, Topivot, Tuoyi Toys, Une petite mouette, Veterans Club a/k/a 老兵俱乐部, wch- us, WEN MIKE, WONDERFUL MEMORIES, WOW GIFT, xuanningshangwu, XueHua INC, Xuiyui7i, YAMMO202, Yicheny US, YLILILY, yongchunchengqingmaoyiyouxiangongsi, YooFly and Zingon US	N/A
<b>Defaulting Defendants</b>	Acuteye-US, APZNOE-US, beijingkangxintangshangmaoyouxiangongsi, blue vivi, Bonuswen, changgeshangmaoyouxiangongsi, Citihomy, Ckypee, DAFA International, Dazzparty, Faming, GeGeonly, HAITing\$, Haocheng-Trade, HAPPY PARTY-001, Heartland GO, Huibi-US, Joysail, Jyoker-US1, Kangxinsheng1, LADYBEETLE, LICHE Cupcake stand, lvyun, Mary good shop, NA-AMZ001, Nagiwart, nuoting, Qingshu, QT-US, SALIMHIB-US, SAM CLAYTONddg, Sensiamz Backdrop, shenzhenshixindajixieyouxiangongsi, SMSCHHX, sujiumaisusu, telike, Theguard, tongmumy, Une petite mouette, Veterans Club a/k/a 老兵俱乐部, wch- us, WEN MIKE, WONDERFUL MEMORIES, WOW GIFT, xuanningshangwu, Xuiyui7i, YAMMO202, Yicheny US, yongchunchengqingmaoyiyouxiangongsi, YooFly and Zingon US	N/A

<b>Amazon</b>	Amazon.com, a Seattle, Washington-based, online marketplace and e-commerce platform owned by Amazon.com, Inc., a Delaware corporation, that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale, sell and ship their retail products, which, upon information and belief, primarily originate from China, directly to consumers worldwide and specifically to consumers residing in the U.S., including New York	N/A
<b>Sealing Order</b>	Order to Seal File entered on July 6, 2021	Dkt. 1
<b>Complaint</b>	Plaintiff's Complaint filed on July 8, 2021	Dkt. 4
<b>Application</b>	Plaintiff's <i>ex Parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i> ) and Defendants' Assets (as defined <i>infra</i> ) with the Financial Institutions (as defined <i>infra</i> ); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on July 8, 2021	Dkts. 10-13
<b>Yang Dec.</b>	Declaration of Su Jeong Yang in Support of Plaintiff's Application	Dkt. 13
<b>Futterman Dec.</b>	Declaration of Danielle S. Futterman in Support of Plaintiff's Application	Dkt. 12
<b>TRO</b>	1) Temporary Restraining Order; 2) Order Restraining Merchant Storefronts and Defendants' Assets with the Financial Institutions; 3) Order to Show Cause Why a Preliminary Injunction Should Not Issue; 4) Order Authorizing Bifurcated and Alternative Service; and 5) Order Authorizing Expedited Discovery entered on July 9, 2021	Dkt. 14
<b>PI Show Cause Hearing</b>	July 30, 2021 hearing to show cause why a preliminary injunction should not issue	N/A
<b>PI Order</b>	July 30, 2021 Preliminary Injunction Order	Dkt. 16
<b>User Account(s)</b>	Any and all websites and any and all accounts with online marketplace platforms such as Amazon, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them	N/A
<b>Merchant Storefronts</b>	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import,	N/A

	export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them	
<b>Baby Shark Content</b>	One of Smart's most successful creations, which is the Pinkfong "Baby Shark" song and viral music video with characters	N/A
<b>Baby Shark Registrations</b>	U.S. Trademark Registration Nos.: 5,803,108 for "BABY SHARK" for a variety of goods in Class 28; 5,483,744 for "PINKFONG" for a variety of goods in Classes 3 and 21; 5,327,527 for "PINKFONG" for a variety of goods in Classes 9, 16 and 28; 4,993,122 for "PINKFONG" a variety of goods in Classes 9 and 25; 6,138,374 for <b>pinkfong</b> for a variety of goods in Class 41; 6,337,210 for "PINKFONG BABY SHARK" for a variety of goods in Class 21 and 6,021,523 for <b>pinkfong Baby Shark</b> for a variety of goods in Class 28	N/A
<b>Baby Shark Applications</b>	U.S. Trademark Serial Application Nos.: 79/253,035 for registration of "BABY SHARK" for a variety of goods in Classes 41, 25, 16 and 9; 88/396,786 for registration of "PINKFONG BABY SHARK" for a variety of goods in Class 25; 88/529,984 for registration of "PINKFONG" for a variety of goods in Class 2, 3, 9, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 32, 41; 88/530,086 for registration of "BABY SHARK" for a variety of goods in Class 2, 3, 9, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 32, 41; 88/594,141 for "PINKFONG" for a variety of goods in Class 5; and 88/594,122 for "BABY SHARK" for a variety of goods in Class 5	N/A
<b>Baby Shark Marks</b>	The Baby Shark Registrations and Baby Shark Applications	N/A
<b>Baby Shark Works</b>	U.S. Copyright Registration Nos.: VA 2-130-856, covering Baby Shark; VA 2-130-847, covering Daddy Shark; VA 2-130-854, covering Mommy Shark; VA 2-131-983, covering Pink Fong Mascot; SR 823-609, covering Baby Shark (Sound Recording and Music); PA 2-142-905, covering Baby Shark (Motion Picture)	N/A
<b>Baby Shark Products</b>	Smart has developed and initiated an extensive worldwide licensing program for a wide variety of consumer products such as toys, sound books, t-shirts,	N/A

	associated with and/or related to the Baby Shark Content	
<b>Counterfeit Products</b>	Products bearing or used in connection with the Baby Shark Marks and/or Baby Shark Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Baby Shark Marks and/or Baby Shark Works, and/or bearing or used in connection with marks and/or artwork that are confusingly or substantially similar to the Baby Shark Marks and/or Baby Shark Works and/or products that are identical or confusingly or substantially similar to the Baby Shark Products	N/A
<b>Defendants' Assets</b>	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)	N/A
<b>Defendants' Financial Accounts</b>	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad)	N/A
<b>Financial Institutions</b>	Any banks, financial institutions, credit card companies and payment processing agencies, such as Amazon.com, Inc., Amazon Payments, Inc. ("Amazon Pay"), PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer"), PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendants	N/A
<b>Third Party Service Providers</b>	Online marketplace platforms, including, without limitation, those owned and operated, directly or indirectly, by Amazon, such as Amazon.com, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise	N/A
<b>Defendants' Frozen Assets</b>	Defendants' Assets from Defendants' Financial Accounts that were and/or are attached and frozen or restrained pursuant to the TRO and/or PI Order, or which are attached and frozen or restrained pursuant to any future order entered by the Court in this Action	N/A

<b>Amazon Discovery</b>	The supplemental report identifying Defendants' Infringing ASIN Number, Merchant Customer ID, Net Ordered Units, among other things, provided by counsel for Amazon to Plaintiff's counsel pursuant to the expedited discovery ordered in both the TRO and PI Order	N/A
<b>August 17, 2022 Order</b>	The Court's August 17, 2022 Order directing Plaintiff to show cause why this case should not be dismissed	Dkt. 101
<b>Supplemental OSC MOL</b>	Plaintiff's memorandum of law filed in response to the Court's August 17, 2022 Order	Dkt. 110
<b>Supplemental Sands Dec.</b>	Declaration by Ashly E. Sands in Support of Plaintiff's response to the Court's August 17, 2022 Order	Dkt. 109
<b>Plaintiff's Motion for Default Judgment</b>	Plaintiff's Application for an Order to Show Cause Why Default Judgment and a Permanent Injunction should not be entered Against Defaulting Defendants filed on August 11, 2023	TBD
<b>Nastasi Aff.</b>	Affidavit by Gabriela N. Nastasi in Support of Plaintiff's Motion for Default Judgment	TBD

Upon the accompanying Affidavit of Gabriela N. Nastasi in support of Plaintiff's application for an Order to Show Cause Why Default Judgment and a Permanent Injunction Should Not be Entered Against Defaulting Defendants, the Certificate of Service of the Summons, Complaint and TRO, the Certificate of the Clerk of the Court stating that no answer has been filed in this Action, and upon all other pleadings and papers on file in this action, it is hereby:

ORDERED that Defaulting Defendants Acuteye-US, APZNOE-US, beijingkangxintangshangmaoyouxiangongsi, blue vivi, Bonuswen, changgeshangmaoyouxiangongsi, Citihomy, Ckypee, DAFA International, Dazzparty, FAming, GeGeonly, HAITing\$, Haocheng-Trade, HAPPY PARTY-001, Heartland GO, Huibi-US, Joysail, Jyoker-US1, Kangxinsheng1, LADYBEETLE, LICHE Cupcake stand, Ivyun, Mary good shop, NA-AMZ001, Nagiwart, nuoting, Qingshu, QT-US, SALIMHIB-US, SAM CLAYTONddg, Sensiamz Backdrop, shenzhenshixindajixieyouxiangongsi, SMSCHHX, sujiumaisusu, telike, Theguard, tongmumy, Une petite mouette, Veterans Club a/k/a 老兵俱乐, wch- us, WEN MIKE, WONDERFUL MEMORIES, WOW GIFT, xuanningshangwu, Xuiyui7i, YAMMO202, Yicheny US, yongchunchengqingmaoyiyouxiangongsi, YooFly and Zingon US show cause before the Honorable Gregory H. Woods, in Courtroom 12C of the United States District Court for the Southern District of New York, at 500 Pearl Street, New York, New York on October 3, 2023, at 1:00 p.m., and show cause why an order should not be issued pursuant to Rule 55 of the Federal Rules of Civil Procedure for the entry of a default judgment against each Defaulting Defendant awarding Plaintiff permanent injunctive relief, statutory damages in the amount of Fifty Thousand U.S. Dollars (\$50,000.00) against each of the fifty-one (51) Defaulting Defendants plus post-judgment interest, and any other ancillary equitable relief as this Court may deem just and proper ("Show Cause Hearing").

ORDERED that the service of a copy of this ORDER TO SHOW CAUSE and its supporting papers, including the Affidavit (collectively, the “OSC Papers”), shall be made on each Defaulting Defendant by August 31, 2023, and deemed effective as to all of Defaulting Defendants if it is completed by the following means:

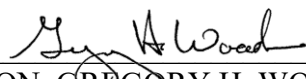
- 1) delivery of (i) PDF copies of the OSC Papers, and (ii) a link to a secure website (including NutStore, a large mail link created through Rmail.com or via website publication through a specific page dedicated to this lawsuit accessible through [ipcounselorslawsuit.com](http://ipcounselorslawsuit.com)) where each Defaulting Defendant will be able to download PDF copies of the OSC Papers, to Defaulting Defendants’ e-mail addresses as identified by Amazon pursuant to Paragraph V(C) of the TRO.

ORDERED that opposing papers, if any, shall be filed with the Court and served on Plaintiff’s counsel on or before September 18, 2023, by delivering copies thereof to the office of Epstein Drangel LLP at 60 East 42<sup>nd</sup> Street, Suite 1250, New York, New York 10165, Attn: Jason M. Drangel. Plaintiff shall file any reply papers on or before September 25, 2023.

Defaulting Defendants are advised that failure to respond to the Order to Show Cause may be grounds for the granting of a default judgement against them, in which event the Defaulting Defendants will have no trial.

**SO ORDERED.**

SIGNED this 14th day of August, 2023, at 12:17 p.m.  
New York, New York

  
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HON. GREGORY H. WOODS  
UNITED STATES DISTRICT JUDGE